

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Bovill Post Office
Bovill, Idaho

Docket No. A2012-109

PUBLIC REPRESENTATIVE COMMENTS
(Issued March 9, 2012)

I. INTRODUCTION

On December 28, 2011, the Commission received a petition from Jamie Fiorino, seeking review of the Postal Service's Final Determination to close the Bovill, Idaho post office (Bovill post office).¹ On January 10, 2012, the Commission received two additional petitions – one from Diane L. Holt and one from Manley and Karen Waldron – also seeking review of the same Final Determination.² The Postal Service issued the Final Determination that is the subject of this proceeding on December 5, 2011.³

On January 19, 2012, the Commission issued an order accepting the appeal, establishing a procedural schedule, and designating a Public Representative to represent the interests of the general public.⁴ The Postal Service submitted comments responding to the appeal on February 22, 2012. The Public Representative hereby submits the following comments on behalf of the general public.

II. STATEMENT OF FACTS

¹ Petition for Review of Jamie Fiorino, December 28, 2011.

² Petition for Review of Diane L. Holt, January 10, 2012; Petition for Review of Manley and Karen Waldron, January 10, 2012.

³ Final Determination to Close the Bovill, ID Post Office and Extend Service by Rural Route Service, December 5, 2011 (Final Determination). The Final Determination is included as Item No. 47 in the Administrative Record (AR), which was filed by the Postal Service on January 12, 2012. Citations to the Final Determination will use the abbreviation "FD" followed by the page number. All other items in the AR are referred to as "AR Item No. ____".

⁴ Notice and Order Accepting Appeal and Establishing Procedural Schedule, January 19, 2012 (Order No. 1148).

The Bovill post office is located at 202 Main Street in Bovill, Idaho, an incorporated rural community located in Latah County, Idaho. AR, Item No. 1, 16. The Bovill post office provides delivery service to 142 post office box customers, and one postage meter customer: the Idaho Distance Education Academy (IDEA). AR Item No. 18, 15, 22 at 45B. In 2010, the Bovill post office generated \$11,102 in revenue. AR Item No. 18.

III. PROCEDURAL HISTORY

In mid-April 2011, the Postal Service mailed notice to customers informing them that it was considering closing the Bovill post office and providing rural route delivery service emanating from the Deary, Idaho post office.⁵ AR Item No. 21. The Postal Service informed Bovill customers that if the closure was implemented, customers could change “to a street address delivered by rural route from the Deary Post Office” or chose to “rent a new PO Box in Deary ID.” *Id.* at.4. Sixty-four customers responded to the notice with written comments, all but one of which was unfavorable toward closure. AR Item No. 22. On April 26, 2011, representatives from the Postal Service held a public meeting at Bovill Elementary School from 4:00 p.m. until 6:00 p.m. AR Item No. 21. Seventy-four members of the community signed the roster, indicating that they attended the event. AR Item No. 24. A newspaper account reported that approximately one-quarter of the town’s population attended. Some attendees indicated that attendance would have been even greater had the Postal Service provided more notice of the meeting and had it held later in the evening. AR Item No. 22 at 76.

On May 31, 2011, the Postal Service posted its Proposal to Close the Bovill, ID Post Office and Extend Service by Rural Route Service (Proposal). AR Item No. 32. The Proposal remained posted in the Bovill post office until August 1, 2011. Unlike the notice that Bovill customers received in mid-April, the Proposal indicated that “[s]ervice may be provided

⁵ When precisely this notice was provided is unclear. The letter, which was accompanied by a customer survey, is dated May 2, 2011. The Final Determination indicates that the questionnaires were distributed on May 2, 2012. This cannot be the case however, as responses to the questionnaires were returned and dated as early as April 18. AR Item No. 22.

to cluster box units.” *Id.* at 2. Two customers completed an optional form, commenting on the Proposal. AR Item No. 34.

On December 7, 2011, the Postal Service issued the Final Determination. In it, the Postal Service indicates that “[s]ervice will be provided to cluster box units.” FD at 2. For customers wishing to use PO Box service, the Final Determination indicates that “[t]here are 13 post office boxes available” at the Deary post office. *Id.* The Final Determination responds to written concerns that were raised by customers in the questionnaires and to vocal concerns that were expressed at the April 26, 2011 meeting. *Id.* at 2-7. The Final Determination also indicates that one employee – a noncareer officer-in-charge (OIC) – “may be separated” as a result of the closing. *Id.* at 7. After a one-time expense of \$12,000, the Final Determination estimates annual economic savings of \$28,270. *Id.*

IV. STANDARD OF REVIEW

A person served by a post office may appeal the Postal Service’s determination to close that office to the Commission. 39 U.S.C. § 404(d)(5). The Commission reviews the final determination on the basis of the record that was before the Postal Service. *Id.* The Commission is required to set aside any determinations, findings, or conclusions that it finds to be (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, (B) without observance of procedure required by law, or (C) unsupported by substantial evidence on the record. *Id.*

Prior to making a final determination as to the necessity for closing a post office, the Postal Service is required to provide adequate notice to persons served by the post office of its intention to close the post office. 39 U.S.C. § 404(d)(1). Notice must be made at least 60 days prior to the proposed date of closing “to ensure that such persons will have an opportunity to present their views.” *Id.* In making a determination to close the post office, the Postal service is required to consider (i) the effect of the closing on the community served by the post office, (ii) the effect of the closing on employees of the post office, (iii) whether the closing is consistent with the policy that the Postal Service provide a maximum degree of

effective and regular service to rural areas, communities, and small towns where post offices are not self-sustaining, (iv) economic savings to the Postal Service resulting from the closing, and (v) such other factors as the Postal Service determines are necessary. 39 U.S.C. 404(b)(2)(A). The Final Determination to close a post office must be in writing, must address the factors that the Postal Service is required to consider, and must be made available to persons served by the post office. 39 U.S.C. 404(c).

V. PUBLIC REPRESENTATIVE'S COMMENTS

After reviewing the Postal Service's Final Determination, the administrative record, the Petitions, and the Postal Service's Comments, the Public Representative believes that the Commission should remand the Final Determination to the Postal Service. As discussed below, the Final Determination is flawed in at least three ways that merit a remand order.

A. The Postal Service Failed to Elicit Meaningful Public Feedback on its Proposal to Provide Service to Cluster Box Units

The Postal Service confused or misled the members of the Bovill community as to what type of service it intended to provide when it closed the Bovill post office. In mid-April, customers were notified in writing that the Postal Service was considering closing the Bovill post office. AR Item No. 21. The notice explained that if the closing was implemented, customers, all of whom used post office boxes, would change "to a street address delivered by a rural route from the Deary Post Office." *Id.* at 4. This generated a substantial response from customers. Sixty-four customers submitted written comments. The comments suggest that many customers believed that either they would be required to drive the Deary post office more than ten miles away to collect their mail or that they would need to purchase and maintain a road-side mail-box. Several customers complained that it would be inconvenient or costly to have mail delivered to a rural mailbox.⁶ Many customers complained that it would

⁶ See AR Item No. 22 at 10A, 14A, 19A, 39A, 50A, 52A, 54A, 68A.

be inconvenient or costly to drive to the Deary post office to collect their mail.⁷ Only one customer discussed the possibility of delivery to cluster boxes.⁸ In written responses to the Bovill customers, the Postal Service addressed the widely-held misconception that customers would need to drive to Dreary to collect their mail. Although the Postal Service mentioned the possibility of installing cluster box units during the April 26, 2011 community meeting, the records from the meeting show that the postal service reinforced the belief that customers would receive mail by home delivery to mailboxes. Indeed, during the meeting, the Postal Service addressed concerns about erecting and maintaining mailboxes, securing mailboxes to prevent theft, and protecting mailboxes from snowplows. AR Item No. 25. As late as May 3, 2011, the Postal Service itself had doubts about whether it was even feasible to install cluster box units.⁹

On May 31, 2011, the Postal Service issued the Proposal. In it, the Postal Service indicated that it was considering that “[s]ervice *may be provided* to cluster box units.” AR Item No. 33 at 1, 8. Unlike the notice, which was delivered to each customer, the Proposal was posted in the Bovill post office. Only two customers submitted comments to the Proposal. On December 7, 2011, the Postal Service issued its Final Determination. In it, the Postal Service indicates, for the first time, that “[s]ervice *will be provided* to cluster box units.” FD at 1. Thus, it was not until the Postal Service issued the Final Proposal that the Bovill public was finally informed as to what form of service the Postal Service intended to provide. As a result, much of the input that the public provided and much of the feedback that the Postal Service received on the issue of replacement service concerned roadside delivery and is of no relevance to the Final Determination. See e.g. FD at 3 (Concern 10), 5 (Concern 21), 6 (Concerns 26, 27).

Before closing a post office, the Postal Service is required to consider “the effect of the closing on the community served by the post office.” 39 U.S.C. 404(d)(2)(a)(i). It is also required to consider the policy that the Postal Service to provide a maximum degree of

⁷ *Id.* at 11A, 12A, 15A, 16A, 17A, 18A, 25A, 34A, 38A, 41A, 42A, 43A, 45A, 48A, 56A, 66A, 69A, 71A.

⁸ *Id.* at 51A.

⁹ See AR Item No. 15 (“Snow is reported to reach 4 feet in height in the winter making CBU siting difficult.”).

effective and regular postal service to rural communities. 39 U.S.C. 404(D)(2)(a)(iii). The procedural rules that section 404 provides give the public an opportunity to provide feedback on what effect a closing will have on the community and on the level of service it will receive. It also provides the Postal Service with an opportunity to consider that feedback *before* deciding whether to close a post office. Here, the Postal Service received meaningful feedback from the public on the effect that changing to *rural mailbox delivery* would have on this community and the degree of service it received. But the Postal Service changed its proposal to *delivery to cluster box units*, without seeking meaningful public feedback on that proposal. In so doing, the Postal Service deprived citizens who were clearly concerned about the effect that closure would have on their community, and the level of postal service it received, from having a meaningful opportunity to comment on the effect that closing the post office and providing delivery to cluster boxes would have on the community and the degree of service it received. The Postal Service also deprived itself of an opportunity to consider the effect that the closing would have on the community and the degree of service it received. The Postal Service has therefore failed to adequately consider the effect that the closing will have on the community served by the post office and whether the closing is consistent with the policy that the Postal Service provide a maximum degree of effective service. 39 U.S.C. 404(d)(2)(i), (iii).

B. The Postal Service Failed to Consider Important Concerns Raised by Members of the Public

In response to the notice that the Postal Service delivered to customers in mid-April 2011, members of public raised several important concerns that the Postal Service failed to consider. Some commenters expressed concerns that by losing the Bovill post office, the community would suffer economic harm in the form of lost business opportunity or a decline in property value. See AR Item No. 22 at 12A (lost business opportunity), 34A (decline in property value). IDEA, a public charter school that operates a business office in Bovill, submitted a letter explaining in detail the degree to which it relies on metered mail and how

substantial a cost and employee time burden the closure of the Bovill post office would have on it. *Id.* at 45B. Petitioner Holt worries that Bovill will lose IDEA to another community because of the post office closure. Holt Petition, January 10, 2012. Other commenters noted, as the Waldron Petitioners do here, that many elderly residents receive medication through the mail, which is delivered to the Bovill post office. Some of these commenters worried whether the medication would heat up or freeze if left in a mail box.¹⁰ Another commenter expressed concern over whether there would be enough post office boxes in the Deary post office. *Id.* at 64A. In responding to the public, the Postal Services never squarely addressed these concerns.

With respect to economic harm, in the Final Determination, the Postal Service expresses its view that the “growth of a community does not depend on the location of a post office.” FD at 6. That response does not meet the expressed concern that the lack of a post office will impose costs on businesses like IDEA, which need to use metered mail and which may ultimately be compelled to relocate their office.¹¹ The Postal Service provided no response to the concern, expressed in many comments, about receiving medication by mail, and in particular, the concern about leaving medication in a box, exposed to extreme temperatures.

The Final Determination indicates that there are 13 post office boxes available in the Deary post office. FD at 1. This is insufficient. The Postal Service has proposed closing the post office in Elk River, Idaho and transferring service for the 92 post office box customers from that post office to the Deary post office as well. See Docket No. A2012-99. If the Post Office offers the option of post office box service to those 92 customers, as it has for the 142 customers of the Bovill post office, it seems quite possible there will not be a sufficient number of boxes available.

The Post Office should have considered the foregoing public concerns *prior* to issuing the Final Determination. In its Comments, the Postal Service addresses Petitioner Waldron’s concerns about having to drive to another town to pick up medication that is shipped through

¹⁰ *Id.* at 18A, 33A, 35A, 37A, 51A, 52A, 54A, 71A; Waldron Petition, January 10, 2012.

¹¹ The Postal Service indicated that the carrier can provide many services but fails to indicate whether metered mail is such a service. AR Item No. 22 at 45.

the mail. Postal Service Comments at 7. The Postal Service's response – that "rural carriers will deliver[] packages that fit in customer rural mailboxes" – fails to meet the customer concerns that leaving medication in a rural mailbox is not a feasible option. See AD Item No. 22 at 51A. The Postal Service solicited and received comments from the community served by the Bovill post office. The members of the community submitted meaningful comments, but the Postal Service failed to consider them. By failing to consider the public comments on the effect that closure will have on the local economy, on the availability of post office boxes in the Deary post office, and on the feasibility of delivering medication to rural boxes, the Postal Service has failed to adequately consider the effect that the closing will have on the community served by the post office and whether the closing is consistent with the policy that the Postal Service provide a maximum degree of effective service. 39 U.S.C. 404(d)(2)(i), (iii).

C. The Postal Service Miscalculated the Economic Savings that Will Result from Closure

In the Final Determination, the Postal Service indicates that it expects to save \$28,270 annually. FD at 7. This consists of purported savings of \$44,279 for eliminating the salary and benefits of one EAS-11 postmaster and \$4,000 for eliminating annual lease costs. The Postal Service estimates replacement service will cost it \$20,009.

This calculation suffers from two important flaws. *First*, the Postal Service does not intend to eliminate any labor costs by closing the Bovill post office. Although it indicates that the one employee currently working at the Bovill post office *may* be separated, the Postal Service indicates that it will attempt to reassign the employee. *Id.* at 8. The Post Office will save on labor costs only if it fails in its endeavor to reassign the employee. *Second*, since April 22, 2010, the Bovill post office has been staffed not by an EAS-11 postmaster but rather by an officer-in-charge whose salary and benefits are not included in the record. *Id.* at 1. Whatever savings the Postal Service *might* secure *if* it fails to reassign the officer-in-charge is entirely unknown.

The only savings that the Postal Service has shown it will secure by closing the Bovill post office is the \$4,000 in annual lease payments. This is dwarfed by the \$20,009 in costs that the Postal Service will incur by providing alternative service. The Postal Service has failed to adequately consider the economic savings that would result from closure of the Bovill Post Office. 39 U.S.C. 404(d)(2)(A)(iv).

V. CONCLUSION

By failing to elicit public input on the plan to close the Bovill post office and to provide service by cluster box units, and by failing to consider important issues concerning the effect on the community and on the degree of effective service that the closure will cause, the Postal Service failed to consider the effect that closing the Bovill post office would have on the community on the policy that it provide a maximum degree of effective and regular postal service. 39 U.S.C. 404(d)(2)(A)(i),(iii). By failing to show that any savings in labor costs would follow from the closure of the Bovill post office, the Postal Service failed to consider the economic savings that would result from the closure. 39 U.S.C. 404(d)(2)(A)(iv).

The Postal Service's conclusions that the "final determination will not adversely affect the community," FD at 7, that the "final determination will provide a maximum degree of effective and regular postal services to the community," FD at 6, and that the Postal Service "estimates an annual savings of \$28,270," FD at 7, are therefore not in accordance with section 404(d)(2)(a)(i),(iii), and (iv), and are not based on substantial evidence on the record. These conclusions should accordingly be set aside pursuant to section 404(d)(5) and the entire matter should be remanded to the Postal Service for further consideration.

Respectfully submitted,

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